

## **REMARKS**

This application has been reviewed in light of the Office Action mailed on August 7, 2003. Claims 13-23 have been canceled and Claims 24-37 have been added. Claims 24, 31 and 36 are in independent form.

In the Office Action, all the previously pending independent claims were rejected under 35 U.S.C. §102(b) as being anticipated by prior art references. More specifically, Claims 13-15, 18-19 and 22, which include previously pending independent Claims 13, 18 and 22, were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,958,559 issued to Glenn et al. on May 25, 1976 (“Glenn et al.”); and Claims 13-15, 17-19 and 21-22, which also include previously pending independent Claims 13, 18 and 22, were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,858,613 issued to Fry et al. on August 22, 1989 (“Fry et al.”).

Additionally, in the Office Action, Claims 16 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Glenn et al. or Fry et al. as applied to Claim 13 above, and further in view of U.S. Patent No. 5,501,655 issued to Rolt et al. on March 26, 1996 (“Rolt et al.”); Claims 17 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Glenn et al. in view of Fry et al.; and Claim 23 was rejected under 35 U.S.C. §103(a) as being unpatentable over Glenn et al. or Fry et al. as applied to Claim 22 above, and further in view of U.S. Patent No. 5,316,000 issued to Chapelon et al. on March 31, 1994 (“Chapelon et al.”).

It is believed that new Claims 24-37, which include independent Claims 24, 31 and 36, recite subject matter which is patentably distinct over the disclosure of the cited

prior art references, especially Glenn et al. and Fry et al. which were cited against the previously pending independent claims.

Glenn et al. is directed to an ultrasonic transducer having a plano-concave lens of elliptical shape positioned in front of the transducer for producing an extremely narrow ultrasonic beam. A scanner is used to move the transducer relative to the patient to adjust the focal zone. Glenn et al. discloses that by proper selection of the material used to construct the lens, it is possible to produce the correct amount of transducer apodization.

Fry et al. is directed to a transducer assembly for visualization and treatment of transcutaneous and intraoperative sites. The transducer assembly provides a substantially enclosed chamber for housing in combination a visualization transducer and a treatment transducer, each of which are movable with both linear and rotary degrees of freedom. The treatment transducer is illustrated by Figure 3 and it includes spaces or compartments 165 and 185, where during treatment a positive differential pressure is maintained in space 185 relative to the pressure in space 165 via flow access channels 189 into column 190 and well 191. See column 6, lines 42-50 in conjunction with Figure 3. Accordingly, at least one region within the transducer assembly has a different pressure than another region within the transducer assembly during treatment.

Neither Glenn et al., Fry et al., Rolt et al. nor Chapelon et al. disclose or suggest the limitations recited by Applicants' newly presented independent Claims 24, 31 and 36. In particular, neither Glenn et al., Fry et al., Rolt et al. nor Chapelon et al. disclose or suggest an apparatus for treatment of subcutaneous tissue comprising at least "a chamber configured to at least partially enclose the means for generating ultrasonic vibrations and the substantially plano-concave lens and being uniformly pressurized therein during

treatment,” as recited by Applicants’ Claim 24. Further, neither Glenn et al., Fry et al., Rolt et al. nor Chapelon et al. disclose or suggest an apparatus for treatment of subcutaneous tissue comprising at least “a chamber configured to at least partially enclose the at least one ultrasonic generator and the at least one substantially plano-concave lens and being uniformly pressurized therein during treatment,” as recited by Applicants’ Claim 31. (Emphasis Added)

Finally, neither Glenn et al., Fry et al., Rolt et al. nor Chapelon et al. disclose or suggest a method for treatment of subcutaneous tissue comprising at least the step of “providing an apparatus including at least one ultrasonic generator configured to generate ultrasonic vibrations; at least one substantially plano-concave lens disposed immediately adjacent the at least one ultrasonic generator to focus the ultrasonic vibrations at a focal point within the tissue; a chamber configured to at least partially enclose the at least one ultrasonic generator and the at least one substantially plano-concave lens and being uniformly pressurized therein during treatment,” as recited by Applicants’ Claim 36.

(Emphasis Added)

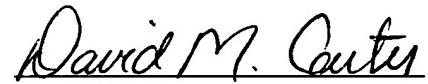
The newly presented dependent Claims 25-30, 32-35 and 37 depend from either independent Claim 24, 31 or 36, and therefore include the limitations of Claims 24, 31 or 36. Accordingly, for at least the same reasons given for Claims 24, 31 and 36, Claims 25-30, 32-35 and 37 are believed to contain patentable subject matter.

In view of the newly presented claims and remarks, withdrawal of the rejections under 35 U.S.C. §§102(b), 103(a) and allowance of all the newly presented claims are respectfully requested.

It is respectfully submitted that all claims presently pending in the application, namely, Claims 24-37, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the undersigned attorney at 631-501-5706.

Respectfully submitted,



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